III. REMARKS

Status of the Claims

Claims 2, 8, and 14 are canceled and claims 1, 7, 13 are amended. Claims 9-12, and 15-20 are presented in a more streamlined form. Claims 1, 3-7, 9-13, and 15-20 are presented for further consideration.

Summary of the Office Action

Claims 1-20 stand rejected under 35USC102(e) on the basis of the cited reference Lavendel, et al, U.S. Patent No. 6,587,129. The Examiner is respectfully requested to reconsider his rejection in view of the above amendments and the following remarks.

Discussion of the Cited Reference

The examiner's relies solely on the reference Lavendel to support the rejection of the claims. Lavendel describes a computer system having a user interface:

"that provides common control of common features of different image acquisition devices while retaining the flexibility needed to provide tailored control that takes advantage of the unique features of each different image acquisition device."(column 1, lines 59-64)

The acquisition devices include scanners, cameras, and film adapter units. The system does not involve image tone adjustment for the output image data of a printer, which is the stated function of the subject invention. One of the many functions provided by the system of Lavendel, however, is tone control of acquired images. The disclosure in this regard is primarily contained at column 15, lines 11-29 of Lavendel with reference to figure 11e. It is upon this disclosure that the Examiner must rely, as there is nothing else that is relevant. A review of this material reveals that the interface of Lavendel offers a

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menu page from which the user can select several modes of tone control, one of which is referred to as "editable tone curve control". The facility offered does not deal with the adjustment of a electrostatic latent image of a photosensitive belt of a printer. The changes are immediately presented via a preview image.

Through the menu, the user may select an editable tone curve which can be manipulated by adding and moving any number of points on the editable curve. In addition one of several "special tone curves" can be selected for application to the acquired image. This constitutes the entire facility for tone control via "editable tone curve".

The Examiner repeatedly refers to a "calibration tone reproduction curve" in spite of the fact that the word "calibration" is absent from the cited reference. There is only an editable tone curve, as indicated above and several "special" tone curves that are used without editing. There is nothing equivalent to the calibration tone curve or the customization curve of the subject invention described in the reference Lavendel. The entire process of Lavendel is directed to facilitating image retrieval within a computer. This is significantly different than the use to which the subject invention is applied.

Accordingly the teaching of Lavendel fails to support the rejection based on anticipation. There is no mention of a calibration tone curve that is applied to an electrostatic latent image data applied to a photoconductive belt of a printer. There is no mention of an independent customized tone curve that may be generated by the user, at the interface, either by plotting the

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curve or by revising other curves. There is no mention of applying the customization tone curve to the original image data and then applying the calibration tone curve to the customized image data. There is no mention of storing the customized tone curves for future use.

The Issue of Anticipation

It is well settled that a claim is anticipated, only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.

The elements of the claim and their function and purpose within the claim must be reviewed in a manner similar to an infringement analysis. If the device described in the cited reference would not infringe if it was later, it will not anticipate if the reference is earlier.

Applying this standard to the system Lavendel, it is observed that significant elements of the claims are missing, as indicated above.

For example, claim 1 states:

> "a customization processor constructed to receive the data entered by said user at said customization interface and generate at least one set of customized tone reproduction curves;
>
> a customization memory for storing said at least one set of customized tone reproduction curves for future use;
>
> wherein said processors are connected to combine said customized tone reproduction curves with said original color image data to generate customized color image data; and
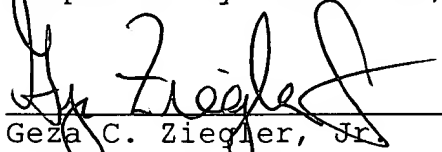
a color maintenance processor including a memory for storing at least one set of calibration tone reproduction curves and wherein said color maintenance processor combines said customized color image data with said calibration tone reproduction curve to generate calibrated customized color image data."

Equivalent language appears in the other independent claims 7 and 13. Since neither these elements nor the related method steps are taught by the cited reference, the system described therein, would not infringe and therefore, the reference does not support a rejection based on anticipation. This would also apply to the rejected dependent claims.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 24-0037.

Respectfully submitted,

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